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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/802,093	03/08/2001	Shintaro Asano	12565-036	4936

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EXAMINER

WILSON, YOLANDA L

ART UNIT PAPER NUMBER

2113

DATE MAILED: 04/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/802,093

Applicant(s)

ASANO, SHINTARO

Examiner

Yolanda Wilson

Art Unit

2113

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 November 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12,13 and 17-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 12,13 and 17-21 is/are allowed.
- 6) ☒ Claim(s) 22-31 is/are rejected.
- 7) ☒ Claim(s) 32 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

6

FINAL DETAILED ACTION

Allowable Subject Matter

1. Claims 12,13,17-21 are allowed.
2. The following is a statement of reasons for the indication of allowable subject matter: The reasons for allowing claims 12,13,17-21 is the inclusion of the limitation recording the termination of the transfer of electronic data and the decoupling of the first and second computers.
3. Claim 32 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 22-31 are rejected under 35 U.S.C. 102(b) as being anticipated by Yu (USPN 5764903). As appears in claim 22, Yu discloses receiving an electronic message at a second computer sent over a network by the first computer, wherein the second computer is located remotely from the first computer and the storage device and the message indicates that the first computer is prepared to start a data back-up process in column 6, lines 42-47; sending an electronic message from the second computer to the first computer to instruct the first computer to start the data back-up

Art Unit: 2113

process in column 6, lines 42-47, the write request is for the secondary server to store the data to its disk drive; using the second computer monitoring over the network the data back-up process being performed by the first computer; and sending a message from the second computer indicating a status of the data back-up process in column 6, line 57 – column 7, line 9. The monitoring occurs by the secondary server sending a message to the primary server once the secondary server's disk drive has finished processing the write.

6. As per claim 23, Yu discloses sending a message includes indicating that the data back-up process was not successful in column 6, line 63 – column 7, line 15.

7. As per claim 24, Yu discloses sending an electronic message from the second computer to the first computer instructing the first computer to repeat the data back-up process in column 6, lines 42-56.

8. As per claim 25, Yu discloses sending a message to an administrator of the first computer indicating that the data back-up process was not successful in column 7, lines 9-15.

9. As per claim 26, Yu discloses sending a message to an administrator includes sending a message over the network from the second computer to the first computer in column 7, lines 9-15.

10. As per claim 27, Yu discloses a network computer having a network connection to couple the network computer to a network, the network computer being programmed to: receive an electronic message sent over the network by the remote computer, wherein the message indicates that the remote computer is prepared to start a data

Art Unit: 2113

back-up process in column 6, lines 42-47; send an electronic message to the remote computer to instruct the remote computer to start the data back-up process in column 6, lines 42-47; monitor the data back-up process being performed by the remote computer; and send a message indicating a status of the back-up process in column 6, line 57 – column 7, line 9. The monitoring occurs by the secondary server sending a message to the primary server once the secondary server's disk drive has finished processing the write.

11. As per claim 28, Yu discloses the network computer is programmed to detect an error in the data back-up process and send a message indicating that the data back-up process was not successful in column 6, line 63 – column 7, line 15.

12. As per claim 29, Yu discloses the network computer is further programmed to send an electronic message from the second computer to the first computer instructing the first computer to repeat the data back-up process in column 6, lines 42-56.

13. As per claim 30, Yu discloses the network computer is further programmed to send an electronic message to the first computer indicating repairs to be performed to correct the error in the back-up process column 7, lines 9-15.

14. As per claim 31, Yu discloses wherein data included in the data back-up process is not provided from the second computer to the first computer in column 5, lines 25-35.

Response to Arguments

15. Applicant's arguments, see pages 6-8 of the amendment filed November 17, 2004, with respect to claims 22-30 have been fully considered and are not persuasive.

Art Unit: 2113

16. Applicant argues "The method of claim 22 provides for remote monitoring of a data back-up process rather than mirroring of data over a network as described by Yu, and because of this difference, the system of Yu is different from and does not anticipate the method of claim 22." Examiner respectfully disagrees.

17. Mirroring of data is a form of back-up because the computer system is backing up data from one computer to another computer; therefore, the mirroring system of Yu still anticipates independent claims 22 and 27.

18. Pertaining to arguments of independent claims 22 and 27, Applicant argues that "Yu does not disclose or suggest a system or method in which one computer, which is monitoring a back-up process on another computer, sends an electronic message to the other computer to start a data back-up process..." Examiner respectfully disagrees.

19. Each limitation in independent claims 22 and 27 disclosed above shows where in Yu the limitation is located; therefore, the claim already states where this particular limitation is disclosed in Yu.

Conclusion

20. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the

Art Unit: 2113

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yolanda Wilson whose telephone number is (571) 272-3653. The examiner can normally be reached on M-F (7:30-4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Beausoliel can be reached on (571) 272-3645. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Yolanda Wilson
Examiner
Art Unit 2113

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